

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL:B06

PLR-146762-10

Date:

May 10, 2011

In Re:

TY:

Legend

Taxpayer	=
Parent	=
Accounting Firm	=
Law Firm	=
Date 1	=
Year 1	=

Dear :

This responds to a letter dated October 19, 2010, submitted by Accounting Firm (Taxpayer's authorized representative) requesting that the Internal Revenue Service ("Service") grant Taxpayer an extension of time under Treas. Reg. §§ 301.9100-1 and 301.9100-3 to file a Form 4876-A ("Election to be Treated as an Interest Charge DISC") for Taxpayer's first taxable year.

The rulings given in this letter are based on facts and representations submitted by Taxpayer and Accounting Firm, and accompanied by penalty of perjury statements. This office has not verified any of the materials submitted in support of the request for a ruling. Verification of the information, representations, and other data may be required as part of the audit process.

FACTS

Taxpayer is a domestic corporation wholly owned by Parent, a limited liability company that is taxed as a partnership for U.S. tax purposes. Accounting Firm is an accounting, tax, and consulting firm. Accounting Firm advised Parent on the tax advantages of forming an interest charge domestic international sales corporation ("IC-DISC"). After Parent decided to proceed with the formation of an IC-DISC, Parent engaged Law Firm to prepare and file all necessary incorporation documents and agreements for Taxpayer. Accounting Firm was also engaged to assist Parent in planning and establishing Taxpayer and to provide subsequent tax compliance services for Taxpayer as an IC-DISC. Consequently, Taxpayer was incorporated on Date 1. Taxpayer's intent was to operate as an IC-DISC from the date of its inception.

In Year 1, when Accounting Firm began preparation of Taxpayer's Form 1120-IC-DISC ("Interest Charge Domestic International Sales Corporation Return"), Accounting Firm discovered that Form 4876-A had not been filed with the Service on behalf of Taxpayer. This was due to a miscommunication between Accounting Firm and Law Firm as to which was responsible for completing the election. By that time, the due date for filing the Form 4876-A for Taxpayer's first taxable year had passed.

Taxpayer has requested a ruling that grants an extension of time to file Form 4876-A so that Taxpayer can be treated as an IC-DISC for its first taxable year.

LAW AND ANALYSIS

Section 992(b)(1)(A) of the Internal Revenue Code ("Code") provides that an election by a corporation to be treated as an IC-DISC shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary may give his consent to the making of an election at such other times as he may designate.

Section 992(b)(1)(B) of the Code provides in part that such election shall be made in such manner as the Secretary shall prescribe.

Temp. Treas. Reg. § 1.921-1T(b)(1) provides, in part, that a corporation electing IC-DISC status must file Form 4876-A. A corporation electing to be treated as an IC-DISC for its first taxable year shall make its election within 90 days after the beginning of that year.

Treas. Reg. § 301.9100-1(c) provides, in part, that the Commissioner, in exercising the Commissioner's discretion, may grant a reasonable extension of time under the rules set forth in Treas. Reg. §§ 301.9100-2 and 301.9100-3 to make a regulatory election under all subtitles of the Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) provides that a regulatory election is an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin. For this purpose, an election includes an application for relief in respect of tax.

Treas. Reg. § 301.9100-3(a) provides that requests for extensions of time for regulatory elections that do not meet the requirements of Treas. Reg. § 301.9100-2 (automatic extensions) must be made under the rules of Treas. Reg. § 301.9100-3. Requests for relief subject to Treas. Reg. § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the grant of relief will not prejudice the interests of the Government.

In the present situation, the election described in Temp. Treas. Reg. § 1.921-1T(b)(1) is a regulatory election as defined in Treas. Reg. § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards for relief set forth in Treas. Reg. § 301.9100-3.

Based on the facts and representations submitted, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file Form 4876-A for Taxpayer's first taxable year.

CAVEATS

The granting of an extension in this ruling letter is not a determination that Taxpayer is otherwise eligible to make the election or to claim IC-DISC status or benefits. See Treas. Reg. § 301.9100-1(a). A copy of this letter ruling should be filed with the Form 4876-A.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent. Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being furnished to your authorized representative.

Sincerely,

Christopher J. Bello
Chief, Branch 6
Office of Associate Chief Counsel
(International)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes

cc: